IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

Rajendra. Versus State of Rajasthan.

S.B. Criminal Jail Appeal No.554/2002 against the judgment and order dated 14-6-2002 passed by the Additional Sessions Judge, Churu, in Sessions Case No.1/2002 (31/2001).

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Date of Judgment: May 22, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Kalu Ram Bhati, Amicus Curiae, for the appellant.
Mr. JPS Chaudhary, Public Prosecutor for the State.

BY THE COURT:

This jail appeal is directed against the judgment and order dated 14-6-2002 passed by the Additional Sessions Judge, Churu (for short, "the trial Court" hereinafter) in Sessions Case No. 1/2002 (31/2001), whereby the trial Court convicted the appellant for the offences under Section 328 and 379 IPC and sentenced him to undergo five years' rigorous imprisonment and a fine of Rs.500/0, in default of payment of fine further to undergo three months' rigorous imprisonment for the offence under Section 328 IPC; and two years' rigorous imprisonment and a fine of Rs.500/-, in default of payment of fine further to undergo one month's rigorous imprisonment for the offence under Section 379 IPC. Both the substantive sentences were

directed to run concurrently. Aggrieved by the judgment and order impugned, the appellant has filed the isntant appeal through jail.

I have heard learned Amicus Curiae for the appellant and the Public Prosecutor appearing for the State. Carefully gone through the judgment and order impugned, as also the record of the trial Court.

On a Parcha-Bayan of PW 1 Mohar Singh, the Police Station, G.R.P., Churu registered a Crime Report on 29.10.2001 alleging therein that he, alongwith his son Vinod Kumar, who was to appear in an examination at Jodhpur on 30-10-2001 for recruitment to Air Force, was to travel in a train. While he was in the Musafirkhana at the Railway Station, Churu, the appellant approached him and disclosed his name. Thereafter the appellant brought two glasses of tea, one glass of tea was given to the complainant and the another was kept by the appellant. The complainant, on taking the tea given by the appellant, went in slumber and thereafter the appellant took away his belongings, cash of Rs. 540/- from his pocket and also the railway tickets, which the complainant was having to undertake the journey. On this report, a case under Sections 328 and 379 IPC was registered and the police investigated the matter and filed Challan against the appellant. The prosecution adduced evidence by producing as many as eight witnesses and the

documents EX.P/1 to EX.P/19. The appellant made statement under Section 313 Cr.P.C. and denied the allegations.

PW 1 Mohar Singh stated that he, along with his son PW 2 Vinod Kumar came to Churu in a train from Dokwa as his son was to appear in a recruitment test to Air Force at Jodhpur and, therefore, in order to go to Jodhpur, he was sitting in the Musafirkhana at the Railway Station, Churu and waiting for the train. At that time, the appellant came and disclosed his name and address and stayed with him for two-three minutes. Thereafter the appellant went for bringing tea and came back with two glasses of tea, one glass of tea was given to him by the appellant. On taking the tea given by the appellant, the complainant became unconscious. He had a bag, two blankets, towel, other wearing garments and cash of Rs.540/- in his pocket, which the appellant had stolen. After gaining consciousness, when he did not find his belongings and the cash, he reported the matter to the police. He has identified the appellant in the Court. He further stated that after lodging the report, he was in search of the appellant and saw him near Lal Ghantagar. On seeing him, the appellant tried to hide himself, however, he identified the appellant and informed the police. Thereafter, the appellant was arrested vide EX.P/5. On arrest, a bag, cash and certain tablets were recovered form the appellant by the police. He stated that after having taken the tea offered

by the appellant duly administered with poison, he became unconscious and gained the consciousness later on.

Similar is the statement of PW 2 Vinod Kumar. He stated that the appellant brought tea and gave to his father PW 1 Mohar Singh, whereupon his father became unconscious and the appellant took away the belongings of his father including the cash of Rs.540/-. On appellant having been arrested, the stolen articles, including certain tablets were recovered from his possession. He has proved the five tablets recovered from the appellant, i.e. Ativan 2 mg.

PW 4 Dr. Ramesh Sundariya medically examined PW 1 Mohar Singh and proved the report EX.P/8. The substance was taken from the stomach of complainant PW 1 Mohar Singh, which was sent for chemical examination to the State Forensic Science Laboratory. As per the FSL report EX.P/19, on chemical examination, portions of Gastric Lavage (1) and Exhibit (2) from pockets marked A and B respectively, gave positive tests for the presence of Benzodiazepine tranquillizing drug.

Thus, it has been established from the statements of these witnesses that it was the appellant who gave tea to the complainant after mixing the tablet(s) containing Benzodiazephine tranquillizing and on taking that tea, complainant PW 1 Mohar Singh became unconscious and his belongings, cash, railway tickets etc. were stolen by the

appellant. It has been proved that the articles stolen the appellant have been recovered from his possession and this fact has been proved from the statements of PW 7 Here Khan, PW 8 Narendra Singh and PW 9 Lala Ram.

On close scrutiny of the statements of the witnesses noticed above, I am of the view that the prosecution has proved the case beyond reasonable doubt against the appellant. The trial Court, on proper and sound appreciation of the evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubt against the appellant and accordingly he was convicted and sentenced for the offences under Section 328 and 379 IPC. In the circumstances, therefore, I do not find any error in the judgment and order impugned convicting and sentencing the appellant for the aforesaid offences.

In the result, the jail appeal fails and is hereby dismissed. The judgment and order impugned dated 14-6-2002 passed by the Additional Sessions Judge, Churu in Sessions Case No. 01/2002 (31/2001) convicting and sentencing the appellant for the offences under Section 328 and 379 IPC is, therefore, affirmed.

(H.R. PANWAR), J.

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